

REMARKS

Applicant thanks Examiner for the thorough examination. In response to the Office Action mailed July 30, 2007 ("Office Action" as used herein), Applicant respectfully presents the following remarks.

Claims 1, 3-11, 16-25 are currently pending, of which Claims 1 and 16 are independent. To focus on a specific embodiment of the invention, Claims 1, 3-4, 7-11, 16-17, and 20 have been amended, and Claims 21-25 have been added. Because support for the amended and new claims can be found in the specification as filed, no new matter has been added. Claims 2 and 12-15 have been canceled without prejudice or disclaimer.

I. Claim Objections

On page 2 of the Office Action, Claim 20 is objected to as referring to Claim 20. Claim 20 is amended to correct the typographical error.

II. Drawings

On page 2 of the Office Action, drawings are objected to as failing to comply with 37 C.F.R. § 1.84(p)(5) because they do not include the reference sign(s) for "Table 2" and "Table 3" mentioned on page 17 of the description. Based on the Applicant's amendment of the specification shown above to no longer refer to Tables 2 and 3, Applicant respectfully submits that the objection to the drawings is moot.

III. Double Patenting

On page 3 of the Office Action, Claims 1, 12, and 16 are provisionally rejected under 35 U.S.C. § 101, a non-statutory type double patenting, as claiming the same invention as that of Claim 1 of co-pending Application No. 11/415,845. Applicant respectfully submits that the rejection is moot based on the amended claims presented in the co-pending application, as the claims presented herein are no longer coextensive in scope with the claims presented in the copending application.

IV. Claim Rejection under 35 U.S.C. §103(a)

On page 3 of the Office Action, Claims 1-20 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 2002/0049666 to Reuter et al. (hereinafter “Reuter”), in view of U.S. Patent No. 7,161,907 to Mott (hereinafter “Mott”).

Applicant respectfully submits that to establish a prima facie of obviousness, the cited art must teach or suggest all the claim features. See, e.g., M.P.E.P. §2142. Applicant respectfully submits that the combination of Reuter and Mott does not teach each and every element of the claimed invention as claimed in amended independent Claims 1 and 16. While the rejected dependent claims should be allowable for the same reasons as their respective independent claims, they should be further allowable due to additional features they recite.

The Office uses Reuter to generally teach a method for distribution of market information in an electronic trading environment. Reuter is directed to a system that improves performance of a computerized trading system by using logically separate communication channels to exchange different types of data. (See, e.g., Reuter, paragraph 11) According to Reuter, a first channel is used for indicative (low priority) data, and a second channel is used for exchange of execution data (high priority data), such as trading commands. (See, e.g., Reuter, paragraph 12). The Office states that Reuter does not teach “determining bandwidth for a communication link” and “dynamically [selecting] a mode of transmission for distributing the market information from a plurality of modes of transmission...” (See, e.g., Office Action, page 4).

To overcome the deficiencies of Reuter, the Office turns to Mott. Applicant respectfully submits that Mott does not teach dynamically switching between modes of transmission on a communication link that involves changing content and format of the data being sent, as claimed in Applicant’s amended independent Claims 1 and 16. Rather, Mott is directed to a system and method for providing dynamic rate flow control. (See, e.g., Mott, Abstract). More specifically, an originating entity in Mott sets requested and target rates of

communication within data that is sent to a destination, and intermediate devices (e.g., switches, routers) may decrease a target rate (thus increasing the time between the communication). (Id.) Through a feedback process, the destination reports the target rate back to the originator, which may be to accept and implement a reduced rate of communication, or select a different channel, etc. (Id.) In other words, the mode is the same, but the rates of transmission can be adjusted.

Applicant respectfully submits that providing a dynamic rate flow control system in which a rate of sending data is adjustable does not teach or suggest the features of having a first mode of transmission that involves sending a new market update when a change in a market order book is detected, and having a second mode of transmission that involves sending a new market information snapshot at predetermined time intervals as claimed in the following features of Applicant's independent Claim 1:

selecting a first mode of transmission ... [that] comprises sending a new market update message from the electronic market when a change in a market order book is detected

[when the bandwidth limit is reached] dynamically selecting a second mode of transmission ... [that] comprises sending a new market information snapshot at predetermined time intervals

Thus, Applicant respectfully submits that the combination of Reuter and Mott fails to teach or suggest every element of the claimed invention, as claimed in amended independent Claim 1, as well as independent Claim 16 that includes similar limitations. While the rejected dependent claims should be allowable for the same reasons as their respective independent claims, they should be further allowable due to additional features they recite.

V. Conclusion

In view of the foregoing, Applicant respectfully submits that the claimed invention as amended is not taught by the cited art. Accordingly, favorable reconsideration and withdrawal of the rejections are respectfully requested.

In the event that the Office maintains the rejection of amended independent claims, Applicant respectfully requests that the Office, in the interest of expedited prosecution, identify, with the specificity required to establish a prima facie case of obviousness, where in the cited reference is an alleged disclosure of the aforementioned features.

If Examiner believes that further dialog would expedite consideration of the application, Examiner is invited to contact Trading Technologies in-house Patent Counsel Monika Dudek at 312-476-1118, or the undersigned attorney or agent.

Respectfully submitted,

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